

REMARKS

Claims 56-87 are in the application.

New Claims

Claims 85-87 have been added. These claims define an adhesive containing labelstock which comprises an adhesive layer and a biaxially stretch-oriented multilayer film wherein the biaxial orientation is accomplished by providing a stretch orientation of the film in the machine direction which is greater than the stretch orientation in the cross direction by at least 10% (claims 85 and 87) or at least by about 20% (claim 86). Support for this definition of the biaxial orientation of the multilayer film is found in the specification and in original claims 51-53.

Previously filed Information Disclosure Statements

Applicants appreciate the Examiner's consideration of the significant number of prior art documents which have been identified in the Information Disclosure Statements filed in this application. On page 2 of the Communication, the Examiner suggested that the Supplemental Information Disclosure Statements mailed to the Patent Office on June 5, 2003, June 11, 2003 and June 27, 2003 were "addressed to Applicants copending divisional case Serial No. 10/236,769...." Applicants have reviewed these Information Disclosure Statements, and it appears from the top of each of the first page of the Supplemental Information Disclosure Statements that the statements were directed to the present application Serial No. 09/531,978, and not to the divisional application. Accordingly, the Examiner's statement is not understood. But, in any event, the issue appears to be moot since the Examiner has reviewed the prior art cited in each of the Supplemental Information Disclosure Statements.

THE REJECTIONS

- I. Claims 56-59, 61-81, 83 and 84 have been rejected under 35 USC §102(b) as anticipated by or, in the alternative, under 35 USC §103(a) as obvious over Japanese Patent Kokai Number 59-49971 translation.

In support of this rejection, the Examiner has noted in particular, the claim on page 1, the discussion on page 3, line 1 through page 5, line 20, particularly page 5, lines 5-8, the paragraph bridging pages 6-7, and the Example of JP '971. It is the Examiner's position that the reference discloses

What appears to be, at least in certain embodiments, applicants' claimed invention wherein an imitation paper polyolefin film which comprises a biaxially oriented polyolefin film containing fillers is disclosed as being laminated to an oriented polyolefin film....With respect to the composition of each of the base and first skin layer, both polypropylene, ethylene-propylene and polyethylene resins may be utilized, as well as a wide variety of inorganic particles, nucleating agents and the like.

It is the Examiner's belief (at page 3) that the polyolefin films 1 and 2, in certain embodiments (not identified) "inherently possess" the required Young's modulus parameters, and the films are disclosed (e.g., the Example on page 14) as being biaxially oriented lengthwise and widthwise before being thermoset. The composite in JP '971 is provided with an adhesive layer (paragraph bridging pages 6-7). Accordingly, the Examiner concludes that the above claims are obvious.

Reconsideration and withdrawal of the rejection is solicited. There is no basis for the Examiner to conclude that the multilayer film of JP '971 inherently possesses the properties of the films of the presently claimed invention. In fact, a reading of JP '971 indicates the Young's modulus parameters are totally different from the modulus parameters specified in the present claims.

The films used in Applicants' adhesive containing labelstock are biaxially oriented which means that the films are oriented in the machine direction and in the cross direction (as opposed to a film which is oriented in one direction only). In one

embodiment, the biaxial orientation is conducted under conditions whereby the tensile modulus of the produced film in the machine direction is greater than the tensile modulus in the cross direction, and the tensile modulus of the film in the cross direction is about 150,000 psi or less (e.g., claims 56-84). In another embodiment, the biaxial orientation is conducted under conditions to provide a stretch orientation of the film in the machine direction which is greater than the stretch orientation in the cross direction by at least 10%, (claims 85 and 87) or by at least 20% (claim 86) and the tensile modulus of the film in the cross direction is 150,000 psi or less.

The rejection of claims 56-59, 61-81, 83 and 84 as anticipated by or obvious over JP '971 must be withdrawn because JP '971 neither teaches nor suggests labelstocks comprising biaxially oriented multilayer films of the type described in these claims. In claim 1 on page 1 of the translation cited by the Examiner, there is described a polyolefin film comprising an oriented polyolefin film 1 containing 10 to 40% of a filler and an oriented polyolefin film 2 having a surface glossiness of 30 or less which is laminated on at least one side of the film 1. There is nothing contained in this teaching that would suggest that the film 1 or the multilayer film obtained by combining films 1 and 2 would have the characteristics specified in the present claims.

With regard to pages 3-5 of JP '971, there is no teaching or suggestion contained on these pages that would even suggest that the properties of the films specified in the present claims are inherently contained in the films described on pages 3-5. In fact, the Example noted by the Examiner which appears on pages 14 and 15, and the Comparative Examples found on pages 16-18 of the English translation, clearly indicate that the films which are the subject matter of JP '971 do not inherently possess the properties ascribed to the presently claimed films. For example, with regard to the multilayer films described in pending claims 56-84, the films described in the Example found on pages 14-15 and the Comparative Examples found on pages 16-17 of JP '971 are characterized by a tensile modulus relationship which is opposite to that specified in these claims. The rejected claims specify that the tensile modulus of the film in the machine direction (i.e., lengthwise) is greater than the tensile modulus in the cross direction (i.e., widthwise). In the Example on pages 14 and 15 of JP '971, the biaxially

oriented film produced in the example is reported to have a Young's modulus of elasticity of 103 kg/mm² lengthwise (i.e., machine direction) and 180 kg/mm² widthwise (cross direction). Thus, the modulus in the machine direction is less than the modulus in the cross direction, not greater than as specified in the above claims.

Similarly, the film prepared in Comparative Example 1 of JP '971 is characterized as having a Young's modulus of elasticity of 200 kg/mm² lengthwise which is less than the modulus of elasticity widthwise which is reported to be 360 kg/mm². Also, the film prepared in Comparative Example 2 has a Young's modulus of 93 kg/mm² lengthwise which is less than the Young's modulus of 150 kg/mm² widthwise.

New claims 85 and 86 specify that the stretch orientation in the machine direction (lengthwise) exceeds the stretch orientation in the cross direction (widthwise) by at least 10%, and claim 86 specifies at least 20%. In contrast, in the Example of JP '971 the film stretch orientation is 3.5 times in the machine direction and 9 times in the cross direction. Thus, the stretch orientation in the machine direction is less than the stretch orientation in the cross direction.

Also, as noted earlier, all of the claims under consideration specify that the tensile modulus in the cross direction is 150,000 psi or less. This parameter is not inherent in JP '971, and JP '971 teaches away from such a low modulus. In the Example on pages 14-15 of JP '971, the modulus in the cross direction (widthwise) is reported as 180 kg/mm² which is equivalent to about 256,000 psi. The modulus in the cross direction of the film of Comparative Example 1 of JP '971 is even higher, namely, 360 kg/mm². In Comparative Example 2, the modulus in the cross direction is 150 kg/mm² or 213,000 psi.

In view of these differences between the teachings of the JP '971 and the subject matter of the claims under consideration, it is clear that the rejections of claims based on JP '971 must be withdrawn. The films of the JP '971 patent are neither identical nor substantially identical to the claimed materials. The parameters of the present claims are not inherently possessed by the films described in JP '971, and they are not obvious from the film described in JP '971. In fact, as detailed above, the parameters disclosed in the JP '971 are specifically outside of the parameters specified

in the present claims, and JP '971 teaches away from the present invention. The rejection of claims 56-59, 61-81, 83 and 84 should be withdrawn.

II. Claims 60 and 82 have been rejected under 35 U.S.C. §103(a) as being unpatentable over JP '971.

The reference is again relied upon substantially as set forth above. Claim 60 teaches the base layer free of inert particulate filler, and the Examiner notes that the reference teaches at page 4, top paragraph, that if white or opaque films are not desired, the filler content can be less than 10%. From this teaching, the Examiner concludes that the reference teaches that the filler content "presumably can be zero." Applicants submit that this conclusion is without foundation.

JP '971 teaches the films contain 10 to 40 wt%, preferably 15-35 wt% of filler.

If the content of the filler is less than 10%, white or opaque films cannot be obtained. (Translation p. 4).

Contrary to the Examiner's statement, JP '971 does not teach that "if white or opaque films are not desired, the filler content can be less than 10 weight percent, and presumably 0 weight percent".

In any event, since claim 60 is dependent from claim 56, the rejection of claim 60 should be withdrawn for the reasons given above with respect to the claim 56. JP '971 does not teach or suggest the parameters specified in claim 56, and as demonstrated above, these parameters are not inherent in the films described in the '971 patent.

Claim 82 teaches that the oriented multilayer film is prepared by simultaneous biaxial orientation. The Examiner has noted that this orientation process is not specifically taught by the reference, but the Examiner believes that the selection of this process is well within the ordinary skill of the art in the absence of unexpected results. Reconsideration and withdrawal of this rejection is solicited, since, as noted by the Examiner, simultaneous biaxial orientation is not disclosed in the reference, and, in the only Example of the process in JP '971, the biaxial orientation is sequential (Example

page 14). Comparative Example 1 is silent as to the details of the biaxial orientation, but Comparative Example 2 again specifies that the biaxial orientation is sequential. (Page 17).


In any event, since claim 82 is dependent from claim 56, the rejection of claim 82 should be withdrawn for the reasons given above with respect to claim 56. JP '971 does not teach or suggest the parameters specified in claim 56, and as demonstrated above, these parameters are not inherent in the films described in the '971 patent.

CONCLUSION

In view of the above comments, the Examiner is requested to reconsider the rejections of claims 56-84. Applicants further submit that all of the claims under consideration (claims 56-87) are allowable. An early action to this effect is solicited.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By 
Armand P. Boisselle
Reg. No. 22,381

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113